



LAWYERS

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MEMO ENDORSED

Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

VICTOR A. KOVNER
DIRECT (212) 489-8230
victorkovner@dwt.com

1633 BROADWAY
NEW YORK, NY 10019-6708

TEL (212) 489-8230
FAX (212) 489-8340
www.dwt.com

May 6, 2008

By Hand

Hon. Deborah A. Batts
United States District Judge
United States District Court for the
Southern District of New York
500 Pearl Street
New York, New York 10007

The Court will hold a
telephone conference to discuss this
issue on May 19, 2008 at 10 AM.
Davis Wright should initiate the
call. * JHans, USDC, 5/12/08

Re: Third Church of Christ, Scientist v. City of New York, et al.;
07 CV 10962 (DAB)

Dear Judge Batts:

* Ms. Brennan should fax the interrogatories to my Chambers by 5/15/08.

This firm represents plaintiff Third Church of Christ, Scientist in this matter. I write to respond to Ms. Brennan's letter that we received last evening regarding the City's interrogatories.

The City served its interrogatories on March 28, 2008. We immediately noted that the interrogatories were improper. On April 1st, my colleague Ms. Pa wrote to Ms. Brennan that "[r]ather than simply ignore these improper interrogatory requests, or wait the full 30 days we have to respond and then inform you that we decline to answer such improper requests, we thought the better course was to raise the issue now." The City continued to take the position that its requests were proper, though we – in a letter dated April 7th from Ms. Pa, an email from me on April 8th, and a letter from my partner John Cuti on April 24th – consistently advised Ms. Brennan that the City's interrogatories were improper under the applicable rules. Ms. Brennan never withdrew or amended the interrogatories. Accordingly, when Plaintiff responded (timely) to the interrogatories, it responded only as required by the rules.

Now Ms. Brennan has written to ask the Court to intervene. For the first time, the City acknowledges that its interrogatories, as we had noted from the outset, sought information beyond that permitted by the rules. Also for the first time, the City has suggested that it propounded more than 100 substantive interrogatories as a substitute for a deposition. That is new information to us. It may be that we can agree with the City to respond to substantive

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interrogatories in lieu of the City taking a deposition. We will call Ms. Brennan to discuss whether we can agree to this approach. Because I trust we can work something out, I respectfully submit that there is no need at this time for the Court to schedule a conference to discuss the City's interrogatory requests. If the parties cannot agree, then I imagine we will jointly request Your Honor's assistance.

Respectfully submitted,



Victor A. Kovner

cc: Ave Maria Brennan, Esq. (by email)